



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2017-0564; FRL-9973-56-Region 9]**

#### **Approval of California Air Plan Revisions, Mojave Desert Air Quality Management**

#### **District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve and conditionally approve revisions to the Mojave Desert Air Quality Management District (MDAQMD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern the District’s demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 1997 8-hour ozone and the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or “standard”) in the portion of the Western Mojave Desert ozone nonattainment area under the jurisdiction of the MDAQMD. The EPA is also taking final action to approve MDAQMD negative declarations into the SIP for the 2008 ozone standard. We are approving and conditionally approving local SIP revisions under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-EPA-R09-OAR-2017-0564. All documents in the docket are listed on the

<http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 942-3848, [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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### **I. Proposed Action**

On November 17, 2017 (82 FR 54309), the EPA proposed to approve the following documents into the California SIP.

Table 1—Submitted Documents			
Local agency	Document	Adopted	Submitted
MDAQMD	MDAQMD 8-Hour Reasonably Available Control Technology—State Implementation Plan Analysis	9/25/06	7/11/2007

Table 1—Submitted Documents			
Local agency	Document	Adopted	Submitted
	(RACT SIP Analysis) “2006 RACT SIP”		
MDAQMD	MDAQMD 2015 8-Hour Reasonably Available Control Technology —State Implementation Plan Analysis (2015 RACT SIP Analysis) “2015 RACT SIP”	2/23/15	9/9/2015
MDAQMD	MDAQMD Federal Negative Declarations for Nineteen Control Techniques Guidelines Source Categories “Negative Declarations for 19 CTGs”	2/23/15	9/9/2015

Specifically, the EPA proposed to partially conditionally approve MDAQMD’s 2006 and 2015 RACT SIPs with respect to Rule 461, *Gasoline Transfer and Dispensing*; Rule 462, *Organic Liquid Loading*; Rule 463, *Storage of Organic Liquids*; Rule 1104, *Organic Solvent Degreasing*; Rule 1114, *Wood Products Coating Operations*; Rule 1115, *Metal Parts and Product Coating Operations*; Rule 1157, *Boilers and Process Heaters*; Rule 1160, *Internal Combustion Engines*; Rule 1161, *Portland Cement Kilns*; and Rule 1162, *Polyester Resin Operations*. Simultaneously, the EPA proposed to partially approve the remainder of MDAQMD’s 2006 and 2015 RACT SIPs, and to fully approve MDAQMD’s negative declarations, submitted on September 9, 2015.<sup>1</sup>

We proposed to approve and conditionally approve these submittals because we determined that they mostly complied with the relevant CAA requirements, and where deficiencies were identified, the District issued a commitment to address these deficiencies

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<sup>1</sup> The EPA noted in its proposal that it was proposing approval of MDAQMD Rule 1106, *Marine and Pleasure Craft Coating Operations*, in parallel with the RACT SIP proposal. The EPA is finalizing its approval of Rule 1106 in a separate notice in today’s Federal Register.

pursuant to 42 U.S.C. 7410(k)(4). Our proposed action contains more information on the submittals and our evaluation.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received four anonymous comments. Commenters generally raised issues that are outside of the scope of this rulemaking, including forest management, wildfire suppression, greenhouse-gas and other non-ozone-precursor emissions from wildfires, and the Cross-State Air Pollution Rule. While some commenters suggested that ozone precursor emissions from wildfires should be regulated, wildfires do not fall within a category for which a RACT submission is required under section 182(b)(2) of the Act, and thus fall outside the scope of the present rulemaking. The EPA is required to approve a state submittal if the submittal meets all applicable requirements. 42 U.S.C. 7410(k)(3). Commenters did not raise any specific issues germane to the approvability of the MDAQMD RACT SIPs and negative declarations.

## **III. EPA Action**

No comments were submitted that change our assessment of the SIP submittals as described in our proposed action. Therefore, as authorized in section 110(k)(3) and (4) of the Act, the EPA is conditionally approving MDAQMD's 2006 and 2015 RACT SIPs with respect to Rule 461, *Gasoline Transfer and Dispensing*; Rule 462, *Organic Liquid Loading*; Rule 463, *Storage of Organic Liquids*; Rule 1104, *Organic Solvent Degreasing*; Rule 1114, *Wood Products Coating Operations*; Rule 1115, *Metal Parts and Product Coating Operations*; Rule 1157, *Boilers and Process Heaters*; Rule 1160, *Internal Combustion Engines*; Rule 1161, *Portland Cement Kilns*; and Rule 1162, *Polyester Resin Operations*, and fully approving the remainder of

MDAQMD's 2006 and 2015 RACT SIPs. The EPA is also fully approving MDAQMD's negative declarations, submitted on September 9, 2015.

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64

FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the

U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 24, 2018.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F-- California**

2. Section 52.220 is amended by

- a. Revising the heading for paragraph (c)(382)(ii); and
- b. Adding paragraphs (c)(382)(ii)(E) and (c)(499).

The revision and additions read as follows:

**§52.220 Identification of plan—in part.**

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(c) \* \* \*

(382) \* \* \*

(ii) *Additional materials.*

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(E) Mojave Desert Air Quality Management District.

(I) 8-Hour Reasonably Available Control Technology—State Implementation Plan Analysis (RACT SIP Analysis), August 2006, adopted on January 22, 2007.

\* \* \* \* \*

(499) The following plan was submitted on September 9, 2015 by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.*



(A) Mojave Desert Air Quality Management District.

(1) 8-Hour Reasonably Available Control Technology—State Implementation Plan Analysis (RACT SIP Analysis), February 2015, adopted on February 23, 2015.

(2) Mojave Desert Air Quality Management District Federal Negative Declaration (8 hr Ozone Standard) for Nineteen CTG Categories, signed January 13, 2015 and adopted on February 23, 2015.

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3. Section 52.222 is amended by adding paragraph (a)(1)(vii) to read as follows:

**§52.222 Negative declarations.**

(a) \* \* \*

(1) \* \* \*

(vii) The following negative declarations for the 2008 ozone NAAQS were adopted by the District on February 23, 2015 and submitted to EPA on September 9, 2015.

CTG Source Category	CTG Reference Document
Large Petroleum Dry Cleaners	EPA 450/3-82-009, 9/82 Control of VOC Emissions from Large Petroleum Dry Cleaners
Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins	EPA-450/3-83-008, 11/83 Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
Manufacture of Pneumatic Rubber Tires	EPA-450/2-78-030, 12/78, Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires
Surface Coating of Cans	EPA-450/2-77-008, 5/77 Control of Volatile Organic Emissions from Existing Stationary Sources – Vol. II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks
Surface Coating of Coils	EPA-450/2-77-008, 5/77 Control of Volatile Organic Emissions from Existing Stationary Sources – Vol. II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks

Surface Coating Operations at Automotive and Light Duty Truck Assembly Plants	EPA 453/R-08-006, 09/08, Control Technique Guidelines for Automobile and Light-Duty Truck Assembly Coatings  EPA-450/2-77-008, 5/77 Control of Volatile Organic Emissions from Existing Stationary Sources – Vol. II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks
Large Appliances, Surface Coatings	EPA-450/2-77-034, 12/77 Control of Volatile Organic Emissions from Existing Stationary Sources – Volume V: Surface Coating of Large Appliances  EPA 453/R-07-004, 09/07, Control Techniques Guidelines for Large Appliance Coatings
Surface Coating of Magnet Wire	EPA-450/2-77-033, 12/77 Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnet Wire
Vacuum Producing Devices or Systems	EPA-450/2-77-025, 10/77 Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
Leaks from Petroleum Refinery Equipment	EPA-450/2-77-025, 10/77 Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
Process Unit Turnarounds	EPA-450/2-77-025, 10/77 Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
Equipment Leaks from Natural Gas/Gasoline Processing Plants	EPA-450/3-83-007, 12/83 Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants
Manufacture of Synthesized Pharmaceutical Products	EPA-450/2-78-029, 12/78 Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products
Air Oxidation Processes (SOCMI)	EPA-450/3-84-015, 12/84 Control of Volatile Organic Compound Emissions from Air Oxidation Process in Synthetic Organic Chemical Manufacturing Industry (SOCMI)
Reactor and Distillation Processes (SOCMI)	EPA-450/4-91-031, 08/93 Control of Volatile Organic Compound Emissions from Reactor Process and Distillation Operations in SOCMI
Equipment used in Synthetic Organic Chemical Polymers and Resin Manufacturing	EPA-450/3-83-006, 03/84 Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
Leaks from Petroleum Refinery Equipment	EPA-450/2-78-036, 06/78 Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment
Metal Furniture Coating	EPA-450/2-77-032, 12/77 Control of Volatile Organic Emissions from Existing Stationary Sources – Volume III: Surface Coating of Metal Furniture  EPA 453/R-07-005, 09/07 Control Techniques Guidelines for Metal Furniture Coatings

Flat Wood Paneling	EPA-450/2-78-032, 06/78 Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VII: Factory Surface Coating of Flat Wood Paneling EPA-453/R-06-004, 09/06 Control Techniques Guidelines for Flat Wood Paneling Coatings
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4. Section 52.248 is amended by adding paragraph (d) to read as follows:

**§52.248 Identification of plan—conditional approval.**

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(d) The EPA is conditionally approving portions of the California SIP revisions submitted on July 11, 2007 and September 9, 2015, demonstrating control measures in the Mojave Desert portion of the Los Angeles-San Bernardino Counties (West Mojave Desert) nonattainment area implement RACT for the 1997 and 2008 ozone standards. The conditional approval is based on a commitment from the state to submit new or revised rules that will correct deficiencies in the following rules for the Mojave Desert Air Quality Management District: (i) Rule 461, *Gasoline Transfer and Dispensing*; (ii) Rule 462, *Organic Liquid Loading*; (iii) Rule 463, *Storage of Organic Liquids*; (iv) Rule 1104, *Organic Solvent Degreasing*; (v) Rule 1114, *Wood Products Coating Operations*; (vi) Rule 1115, *Metal Parts and Product Coating Operations*; (vii) Rule 1157, *Boilers and Process Heaters*; (viii) Rule 1160, *Internal Combustion Engines*; (ix) Rule 1161, *Portland Cement Kilns*; and (x) Rule 1162, *Polyester Resin Operations*.

If the State fails to meet its commitment by January 31, 2019, the conditional approval is treated as a disapproval.